

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
DIVISION OF JUDGES

PEOPLE UNITED FOR SUSTAINABLE  
HOUSING, INC.

and

Case No. 03-CA-271788

JOANNE JOHNSON<sup>1</sup>  
An Individual

and

KATHRYN CEJKA  
An Individual

Case No. 03-CA-271790

*Nicole Roberts, Esq.*

for the General Counsel.

*Megan E. Bahas and Robert P. Heary, Esqs. (Barclay Damon LLP, Buffalo, New York)*  
for the Respondent.

DECISION

STATEMENT OF THE CASE

Arthur J. Amchan, Administrative Law Judge. This case was tried via Zoom technology on July 13-15, 2021. Joanne Johnson and Kathryn Cejka filed the charges giving rise to this case on January 26, 2021. The General Counsel issued a consolidated complaint on April 13, 2021.

The General Counsel alleges that Respondent violated Section 8(a)(1) of the Act by terminating Cejka on August 12, 2020 and terminating Johnson on August 27, 2020, due to their engaging in protected concerted activity – namely sending an email to Respondent’s Board of Directors on August 6, 2020. That email asked to be involved in Respondent’s budget process and to be present when that budget was presented to Respondent’s Board of Directors. As discussed below, I find that Respondent violated the Act as alleged.

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<sup>1</sup> I believe Ms. Johnson’s first name is Joanne with an e, despite what the caption on the complaint states. She is generally known as Aminah Johnson, rather than Joanne.

On the entire record,<sup>2</sup> including my observation of the demeanor of the witnesses, and after considering the briefs filed by the General Counsel and Respondent, I make the following

## FINDINGS OF FACT

### I. JURISDICTION

Respondent, People United for Sustainable Housing (PUSH) is a not-for profit corporation in Buffalo, New York. It provides services for affordable housing and community organizing. PUSH derives gross revenues in excess of \$250,000 and purchases and receives at its Buffalo facility, goods and materials valued in excess of \$5,000 directly from outside the State of New York.

### II. ALLEGED UNFAIR LABOR PRACTICES

People United for Sustainable Housing (PUSH) is a local membership organization created to make affordable housing available in west Buffalo, New York. It was founded by Aaron Bartley and Eric Walker in 2005. Bartley was PUSH's Executive Director until August 1, 2018. He was replaced by PUSH's current Executive Director, Rahwa Ghirmatzion. She is assisted by 2 Deputy Directors, Harper Bishop, Deputy Director of Movement Building, who was hired in February 2019 and Dawn Wells-Clyburn, who has been Deputy Director for Administration also since 2019. PUSH has about 46 staff employees, who work in 6 different departments.

Joanne "Aminah" Johnson was one of, if not the first employee of PUSH, hired in 2006. For several years prior to her termination, Johnson was a tenant advocate. Her job was to document substandard living conditions and accompany tenants to the Buffalo Housing Court.

PUSH hired Kathryn Cejka in October 2019 as a community data and logistics organizer. Her title was changed to community data and logistics coordinator. Her duties, mainly making data entries, using a platform called Salesforce and word processing, did not change during her employment. Respondent put Cejka on a Performance Improvement Plan (PIP) in January 2020. The PIP expired on February 29, 2020. By March 2, 2020. Cejka was a full-time permanent employee of PUSH in good standing. Neither Cejka nor Johnson received any written discipline prior to their terminations in August 2020. Both Cejka and Johnson and other PUSH employees began working remotely rather than from the PUSH office soon after the COVID pandemic began.

In mid-2020, PUSH announced that its Mutual Aid Hub, a program that distributed food and household items to low income tenants during the first months of COVID, would end its operations effective August 30. Ghirmatzion testified that Cejka complained about this and accused Ghirmatzion of lying to the Buffalo community. Cejka testified that she does not recall disagreeing with this decision or criticizing Ghirmatzion. She did not specifically deny telling Ghirmatzion that Ghirmatzion was lying to the community. I credit Ghirmatzion. However, it is

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<sup>2</sup> The exhibits are a mess- largely due to the use of different numbering for exhibits. Nevertheless, I believe I can decipher the facts.

not clear precisely when this conversation occurred and Cejka continued to work for Respondent afterwards.

5 In about June 2020, Deputy Director Wells-Clyburn, who was filling in for Bishop, who was on paternity leave, assigned each of the members of the organizing team, as well as others, the task of preparing a budget for their areas of responsibility. Each employee was to estimate the cost of the activities for fiscal year 2021. They were specifically told not to include the cost of their salary and benefits. The team met weekly on this project in June and July. Employee participation in this process was scheduled to end on August 1, 2020. The employees were told  
10 that the final PUSH budget would be delivered by Executive Director Ghirmatzion to the PUSH Board of Directors in November 2020 and then voted on by the Board in January 2021.

At a meeting in late July, Aminah Johnson asked Deputy Director Harper Bishop if the team could be present when the budget was presented to the Board of Directors. Bishop  
15 answered negatively. The organizing team members discussed amongst themselves their understanding that in prior years employees had lost their jobs due to lack of funding. The team decided to send an email to the Board of Directors asking to be included in the budget process. Johnson drafted the email and Cejka sent it to the Board, Ghirmatzion, Bishop and Wells-Clyburn on August 6. It read:

20 We the undersigned request a viewing and a copy of the final, edited budget report prior to its presentation to the board as well as to be present in the board meeting when it is met upon. We request there be time reserved at Friday's Organizing Admin meeting to discuss the topic further.

25 The email was signed: The Organizing Team, Kat Cejka, Aminah Johnson, Angel Rosado, Kelly Comacho, Tyrell Ford, Da'von McCune<sup>3</sup>

30 Shortly after receiving the email, Bishop called Cejka and asked her why the email was sent. He also told her that he had a lot of power and that the email would have a big impact. He also told Cejka that the organizing team would be under Ghirmatzion's jurisdiction going forward.

35 Ghirmatzion sent an email to the organizing team on August 6, which stated in part:

40 It is troubling as Heidi [Heidi Jones, the Vice Chair of PUSH's Board of Directors] pointed out that folks included me and the rest of the Board on this matter, which is clearly a staff issue before a final budget draft or going to Dawn and Steve who have been meeting with staff or their direct supervisor Harper Bishop with any questions or concerns. We will meet with the staff that sent this email and I will report back to the Board of Directors at the next Board meeting.

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<sup>3</sup> The titles of the other 4 team members are as follows: Angel Rosado-street team housing justice organizer, Kelly Comacho-criminal justice organizer, Tyrell Ford-lead street team organizer, Da'von McCune-GSNC Program Manager.

On August 7, 2020 the organizing team had a Zoom staff meeting; Ghirmatzion, Bishop and Wells-Clyburn were present. At the outset Executive Director Ghirmatzion addressed the meeting. She started by explaining the budget process. Then she addressed the team's August 6 email. Ghirmatzion described the email as disrespectful to employees in other parts of the organization. She continued:

And so that said, what it did for me is really finally let me know exactly the problem here. And the problem is, some of you don't want to be here. It's been clear to me for some time, honestly. You don't want to be here.

And so I'm here to let you know, we will double back... We also have—should have a commitment to each other. There's clearly no trust here. We can't move forward if we don't trust each other. And it's a mutual thing.

You know, there are some people that don't have confidence in that. And that's okay. That's perfectly fine, you know. But there's really not much to talk about or move forward with if there's no trust, and the trust has been broken. So I'm here just to let you know that is where things stand.

I thank you for your email. Thank you for the reality check. And we will be in touch, and we will be making some very different changes, really, for the work plan and the work and the mission that we've been committed to, and how we're going to move forward.

Ghirmatzion then left the Zoom meeting to take another call. Sometime on August 7, Ghirmatzion directed that Cejka's access to Salesforce be terminated. She did not expect Cejka to continue working for PUSH without access to Salesforce. Cejka could not do her main job functions without it.

On August 12, Cejka resigned from PUSH effective August 19, 2020.

On August 27, 2020, Respondent terminated Aminah Johnson. The termination letter, R. Exh. 16 states, "As you know, there have been concerns with you fulfilling the requirements of your job description."

The job description in question, Exhibit R-6, appears to have been created in February 2020. Ghirmatzion testified that Johnson was asked [passive tense] what she had been doing and why she wasn't performing any work, Tr. 188-89. Ghirmatzion did not testify as to who asked this question or when it was asked. There is no documentation to support this or any other chastisement of Johnson. I therefore do not credit Ghirmatzion's testimony, which is hearsay unless she had first-hand knowledge of such an inquiry.. Regardless, there is no evidence that Respondent decided to terminate Johnson until after the August 6 email.

On August 4, three weeks prior to that and a few days before the organizing team's email about the budget, Harper Bishop sent Ghirmatzion an email which concluded:

And  
Aminah still suckered me into lunch during  
Covid. Can we set a timeline for  
releasing her into the world?

R. Exh. 18.

Johnson testified that Ghirmatzion called her on August 7 [this call may have taken place on the evening of August 6, but clearly after Ghirmatzion had received the email]. According to Johnson, Ghirmatzion started the conversation by saying, "you of all people. I don't trust you anymore." Tr. 110-111. Ghirmatzion did not contradict this testimony; therefore I credit it.

Ghirmatzion confirmed that she spoke with Johnson after receiving the organizing team email. She stated that she asked Johnson why had she not come to Ghirmatzion if there were questions about the budget or anything else. Ghirmatzion testified further that she and Johnson discussed Harper Bishop's refusal to hire an additional person to do videographic work for the tenant advocacy staff. Ghirmatzion told Johnson that she agreed with Bishop. She also told Johnson that she trusted Bishop. She did not deny telling Johnson that she no longer trusted Johnson, Tr. 241-243.

Ghirmatzion, Bishop and Wells-Clyburn discussed terminating Cejka and Johnson before receiving the August 6 email. However, they never did so until afterwards. In July 2020, Bishop and Wells-Clyburn discussed replacing Cejka with Nikki Mial, who worked in the PUSH finance department. During this exchange, Bishop wrote "Hey ho Kat has gotta go!", " Exh. R-24. Mial was never transferred. After Cejka resigned, her tasks were redistributed throughout the organization.

### *Analysis*

Section 8(a)(1) of the National Labor Relations Act provides that it is an unfair labor practice to interfere with, restrain or coerce employees in the exercise of the rights guaranteed in Section 7. Discharging or otherwise discriminating against employees because they engaged in activity protected by Section 7 is a violation of Section 8(a)(1).

Section 7 provides that, "employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, *and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection ...* (Emphasis added)"

In *Myers Industries (Myers I)*, 268 NLRB 493 (1984), and in *Myers Industries (Myers II)* 281 NLRB 882 (1986), the Board held that "concerted activities" protected by Section 7 are those "engaged in with or on the authority of other employees, and not solely by and on behalf of the employee himself."

To establish an 8(a)(1) violation based on an adverse employment action where the motive for the action is disputed, the General Counsel has the initial burden of

showing that protected activity was a motivating factor for the action, *Wright Line*, 251 NLRB 1083 (1980). The General Counsel satisfies that burden by proving the existence of protected activity, the employer's knowledge of the activity, and animus against the activity that is sufficient to create an inference that the employee's protected activity was a motivating factor in his or her discharge. If the General Counsel meets his burden, the burden shifts to the employer to demonstrate that the same action would have taken place even in the absence of the protected conduct.<sup>4</sup>

The issues in the instant case are whether PUSH would have terminated Cejka and Johnson when it did even if PUSH did not receive the August 6 email and whether that email was for employees' mutual aid or protection.<sup>5</sup>

There can be no dispute that the August 6 email constituted concerted activity on the part of Cejka, Johnson and the other signatories. Whether it was protected depends on whether the letter was sent for "mutual aid or protection." I find that the August 6 email constitutes "protected concerted activity."

In *Eastex v. NLRB*, 437 U.S. 556 (1978) the United States Supreme Court addressed the scope of the "mutual aid or protection" language in affirming the Board's decision at 215 NLRB 271, 274 (1974). The Court stated:

It is true, of course, that some concerted activity bears a less immediate relationship to employees' interests as employees than other such activity. We may assume that, at some point, the relationship becomes so attenuated that an activity cannot fairly be deemed to come within the "mutual aid or protection" clause. It is neither necessary nor appropriate, however, for us to attempt to delineate precisely the boundaries of the "mutual aid or protection" clause. That task is for the Board to perform in the first instance as it considers the wide variety of cases that come before it. To decide this case, it is enough to determine whether the Board erred in holding that distribution of the second and third sections of the newsletter is for the purpose of "mutual aid or protection."

The Board determined that distribution of the second section, urging employees to write their legislators to oppose incorporation of the state "right to work" statute into a revised state constitution, was protected because union security is "central to the union concept of strength through solidarity.... We cannot say that the Board erred in holding that this section of the newsletter bears such a relation to employees' interests as to come within the guarantee of the "mutual aid or protection clause."

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<sup>4</sup> In cases in which the employer's motive for allegedly discriminatory discipline is at issue, the *Wright Line* test applies regardless of whether the employee was engaged in union activity or other protected concerted activity, *Hoodview Vending Co.*, 362 NLRB 690 (2015); 359 NLRB 355 (2012).

<sup>5</sup> In *Tschiggfrie Properties*, 368 NLRB No. 120, slip op. at 1 (2019), the Board held that "to meet the General Counsel's initial burden [under *Wright Line*], the evidence of animus must support a finding that a causal relationship exists between the employee's protected activity and the employer's adverse action against the employee." The General Counsel satisfied his burden under this test.

The Board held that distribution of the third section, criticizing a Presidential veto of an increase in the federal minimum wage and urging employees to register to vote to “defeat our enemies an elect our friends,” was protected despite the fact that petitioner’s employees were paid more than the vetoed minimum wage. It reasoned that the “minimum wage inevitably influences wage levels derived from collective bargaining, even those far above the minimum,”; and that “concern by [petitioner’s] employees for the plight of other employees might gain support for them at some future time when they might have a dispute with their employer.” We think the Board acted within the range of its discretion in so holding...

437 U.S. at 567-570.

At Tr. 45-46, Kathryn Cejka testified as to the concerns that led the organizing team to send the August 6 email. “And we also discussed how in the past people had been fired from their positions because of lack of funding.” “When I was first employed, there was a situation with the street team and the action team who were fired because of an issue with funding.”

Action taken by employees as a result of a group concern about the security or preservation of their jobs is well within the term “mutual aid or protection,” as found by the Board in 1974 and affirmed by the Supreme Court in 1978.

*Respondent constructively discharged Kathryn Cejka*

Respondent admits it terminated Joanne “Aminah” Johnson. Although Kathryn Cejka resigned her employment, her tenure at PUSH ended on account of a classic constructive discharge.

The Board requires two elements to be shown to establish a constructive discharge. First, the burdens imposed on the employee must cause and be intended to cause, a change in working conditions so difficult or unpleasant as to force the employee to resign. Second the burden must have been imposed because of the employee’s protected activities. Both elements have been established with regard to Cejka, *North Carolina Prisoner Legal Services*, 351 NLRB 464, 470 (2007). Almost immediately after receiving the August 6 email, Ms. Ghirmatzion suspended Cejka’s access to Salesforce, knowing that Cejka could not do her job without it.

The timing of Cejka’s discharge satisfies the General Counsel’s burden with respect to animus and a causal relationship between her discharge and protected activity, *Case Farms of North Carolina*, 353 NLRB 257 (2008). Notably, there was no intervening event that suggests a credible alternative explanation for the discharge. Thus, Respondent has not met its burden of demonstrating that it would have discharged Cejka in the absence of her protected activity when it did despite considering whether to terminate her earlier. Once the General Counsel meets its initial burden,, it is the Respondent’s burden under *Wright Line* to establish that it would have done “what it did when it did,” *We Can, Inc.*, 315 NLRB 170, 172 (1994); *A.S.V. Inc.*, 366

NLRB No. 162 (2018), slip. op. at 1, fn. 4; *International Shipping Agency, Inc.*, 369 NLRB No. 79 (2020), slip op. at page 4; *Eddyleon Chocolate*, 301 NLRB 887, 890 (1991).

5 Although, Respondent waited 2 weeks to fire Johnson, I reach the same conclusion regarding her discharge. As with Cejka, there was no intervening event that suggests a credible alternative explanation for the discharge. Johnson's termination letter, Exh. R-16, does not allude to one.

10 Finally, it is well established that an employer's failure to take action against all or some other union supporters does not disprove discriminatory motive, otherwise established, for its adverse action against a particular union supporter, *Master Security Services*, 270 NLRB 543, 552 (1984); *Volair Contractors, Inc.*, 341 NLRB 673, 676 fn. 17 (2004); *NLRB v. W.C. Nabors Co.*, 196 F.2d 272 (5th Cir. 1952); cert. denied 344 U.S.865 (1952), *CNN America, Inc.*, 361 NLRB 439, 500 (2014); 362 NLRB 293 (2015), affd. in relevant part *NLRB v. CNN*  
15 *America*, 865 F.3d 740 (D.C. Cir. 2017). The same holds true with regard to the fact that Respondent did not take any action against the other 4 signatories to the August 6, 2020 email.

#### *The "First National Maintenance" issue*

20 The U. S. Supreme Court held in *First National Maintenance v. NLRB*, 452 U.S. 666 (1981) that the employer did not have to bargain with its employees union over its decision to cancel a contract with one of its customers, or the effects of that decision. That decision does not necessarily lead to the conclusion that an employer could discipline or discharge employees for  
25 concertedly protesting such a decision or seeking to have it changed. Indeed, the Court's *Eastex* decision seems to lead to precisely the opposite conclusion.

30 However, Respondent submits that Board precedent, *Co-Op City*, 341 NLRB 255 (2004) (sometimes cited as *Riverbay Corp.*) and *Lutheran Social Services of Minnesota*, 250 NLRB 35, 40 (1980) holds that concerted activity such as that engaged in by Cejka and Johnson is not protected because it involves efforts to affect the ultimate direction of the business. I do not agree. First of all, I find that the August 6 email cannot be fairly construed as an effort to affect the ultimate direction of PUSH. It does not seek any change to the fundamental nature of  
35 PUSH's business or even materially affect it by seeking to preserve the signatories' jobs. See *Reece Corp*, 294 NLRB 448, 449 (1989) [whether bargaining is precluded depends on whether the matter turns on a change in the nature or direction of the business, or turns upon labor costs]

40 The Board has in several cases found that an employer violates the Act in discharging or disciplining employees who complain about staffing levels, e. g., *Valley Hospital Medical Center* 351 NLRB 1250, 1252-53 (2007) enfd. 358 Fed Appx. 783 (9<sup>th</sup> Cir. 2009). Concerns about being short-changed in an employer's budget process are analogous to concerns about staffing.<sup>6</sup> I find an employer cannot discriminate or discharge employees for complaining about or seeking participation in either.

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<sup>6</sup> In *Valley Hospital* the employer and the Union were negotiating about staffing levels. I find that this is not a determinative distinguishing factor from the instant case.



Secondly, I think the cases cited by Respondent are distinguishable. In *Co-Op City* the Board held that the employer did not violate Section 8(a)(1) by maintaining a rule that prohibited employees from participating in the election of the members of the Employer's board of directors. The holding is limited to the proposition that "mere maintenance of this rule" does not violate the act. I decline to extend the holding further to the proposition that an employer may discriminate or discharge an employee for the conduct engaged in by Cejka and Johnson. To do so would fly in the face of the plain language of the NLRA and the *Eastex* decision.

*Lutheran Social Services of Minnesota* is also distinguishable. The employer in that case operated a home for emotionally troubled and socially maladjusted children. The Board "short-form adopted" a very long administrative law judge's decision in which he dismissed the complaint on various grounds, including findings that the discriminatees' criticism of the employer's direction and philosophy of treatment fell outside the objectives of "mutual aid or protection" and that the discriminatees' conduct rendered them "unfit for further service." Thus, it is difficult to say what is the holding of the case and what is dicta.

*Harrah's Lake Tahoe Resort*, 307 NLRB 182 (1992), also cited by Respondent, is not relevant to this case. There, the Board found that the discriminatees' proposal did not advance employees' interests as employees but rather advanced their interest as entrepreneurs, owners and managers. The email in this case advanced the interests of the signatories as employees in seeking assurances that their jobs would be preserved.

#### Conclusion of Law

Respondent, People United for Sustainable Housing, Inc. (PUSH) violated Section 8(a)(1) of the Act by discharging Kathryn Cejka and Joanne "Aminah" Johnson.

#### REMEDY

The Respondent, having discriminatorily discharged employees, must offer them reinstatement and make them whole for any loss of earnings and other benefits. Backpay shall be computed in accordance with *F. W. Woolworth Co.*, 90 NLRB 289 (1950), with interest at the rate prescribed in *New Horizons*, 283 NLRB 1173 (1987), compounded daily as prescribed in *Kentucky River Medical Center*, 356 NLRB No. 8 (2010). Respondent shall also compensate Kathryn Cejka and Joanne "Aminah" Johnson for any reasonable search-for-work and interim employment expenses regardless of whether those expenses exceed interim earnings. Search-for-work and interim employment expenses shall be calculated separately from taxable net backpay, with interest at the rate prescribed in *New Horizons*, above, compounded daily as prescribed in *Kentucky River Medical Center*, above.

Respondent shall reimburse the discriminatees in amounts equal to the difference in taxes owed upon receipt of a lump-sum backpay award and taxes that would have been owed had there been no discrimination. Respondent shall also take whatever steps are necessary to insure that the Social Security Administration credits the discriminatees backpay to the proper quarters on their Social Security earnings records. To this end, Respondent shall file with the Regional Director for Region 3, within 21 days of the date the amount of backpay is fixed, either by

agreement or Board order, a report allocating the backpay award to the appropriate calendar years.

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended<sup>7</sup>

### Order

Respondent, People United for Sustainable Housing, Inc. (PUSH), its officers, agents, successors, and assigns, shall

#### 1) Cease and desist from

(a) Discharging or otherwise discriminating against any of its employees for engaging in and/or planning to engage in protected concerted activities, including but not limited to seeking inclusion in the budget process.

(b) In any like or related manner interfering with, restraining, or coercing its employees in the exercise of their rights under Section 7 of the Act.

#### 2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Within 14 days from the date of the Board's Order, offer Kathryn Cejka and Joanne "Aminah" Johnson full reinstatement to their former jobs or, if those jobs no longer exist, to substantially equivalent positions, without prejudice to their seniority or any other rights or privileges previously enjoyed.

(b) Make Kathryn Cejka and Joanne "Aminah" Johnson whole for any loss of earnings and other benefits suffered as a result of the discrimination against them, in the manner set forth in the remedy section of the decision.

(c) Compensate Kathryn Cejka and Joanne "Aminah" Johnson for their search-for-work and interim employment expenses regardless of whether those expenses exceed their interim earnings.

(d) Compensate Kathryn Cejka and Joanne "Aminah" Johnson for the adverse tax consequences, if any, of receiving a lump-sum backpay award, and file with the Regional Director for Region 3, within 21 days of the date the amount of backpay is fixed, either by agreement or Board order, a report allocating the backpay awards to the appropriate calendar years.

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<sup>7</sup> If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

(e) Within 14 days from the date of the Board's Order, remove from its files any reference to the unlawful discharges and within 3 days thereafter notify Kathryn Cejka and Joanne "Aminah" Johnson in writing that this has been done and that the discharges will not be used against them in any way.

(f) File with the Regional Director for Region 3 a copy of Cejka and Johnson's corresponding W-2 forms reflecting the backpay award.

(g) Preserve and, within 14 days of a request, or such additional time as the Regional Director may allow for good cause shown, provide at a reasonable place designated by the Board or its agents, all payroll records, social security payment records, timecards, personnel records and reports, and all other records, including an electronic copy of such records if stored in electronic form, necessary to analyze the amount of backpay due under the terms of this Order.

(h) Within 14 days after service by the Region, post at its Buffalo, New York facility copies of the attached notice marked "Appendix".<sup>8</sup> Copies of the notice, on forms provided by the Regional Director for Region 3, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. In addition to physical posting of paper notices, the notices shall be distributed electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means, if the Respondent customarily communicates with its employees by such means. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since August 7, 2020.<sup>9</sup>

(i) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

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<sup>8</sup> If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

<sup>9</sup> If the facility involved in these proceedings is open and staffed by a substantial complement of employees, the notices must be posted within 14 days after service by the Region. If the facility involved in these proceedings is closed due to the Coronavirus Disease 2019 (COVID-19) pandemic, the notices must be posted within 14 days after the facility reopens and a substantial complement of employees have returned to work, and the notices may not be posted until a substantial complement of employees have returned to work. Any delay in the physical posting of paper notices also applies to the electronic distribution of the notice if the Respondent customarily communicates with its employees by electronic means.

Dated, Washington, D.C.  
August 27, 2021

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A handwritten signature in black ink that reads "Arthur J. Amchan". The signature is written in a cursive style with a large, stylized 'A' and 'J'.

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Arthur J. Amchan  
Administrative Law Judge

## APPENDIX

### NOTICE TO EMPLOYEES

Posted by Order of the  
National Labor Relations Board  
An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

#### FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union  
Choose representatives to bargain with us on your behalf  
Act together with other employees for your benefit and protection  
Choose not to engage in any of these protected activities.

WE WILL NOT discharge or otherwise discriminate against any of you for engaging in or planning to engage in protected concerted activity, including seeking greater inclusion in our budget process.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL, within 14 days from the date of this Order, offer Kathryn Cejka and Joanne “Aminah” Johnson full reinstatement to their former jobs or, if those jobs no longer exist, to a substantially equivalent position, without prejudice to their seniority or any other rights or privileges previously enjoyed.

WE WILL make Kathryn Cejka and Joanne “Aminah” Johnson whole for any loss of earnings and other benefits resulting from their discharges, less any net interim earnings, plus interest compounded daily.

WE WILL compensate Kathryn Cejka and Joanne “Aminah” Johnson for the adverse tax consequences, if any, of receiving a lump-sum backpay award, and WE WILL file a report with the Regional Director for Region 3 allocating the backpay award to the appropriate calendar quarters.

WE WILL compensate Kathryn Cejka and Joanne “Aminah” Johnson for their search-for-work and interim employment expenses regardless of whether those expenses exceed their interim earnings.

WE WILL, within 14 days from the date of this Order, remove from our files any reference to the unlawful discharges of Kathryn Cejka and Joanne “Aminah” Johnson, and WE WILL, within 3 days thereafter, notify them in writing that this has been done and that the discharges will not be used against them in any way.

PEOPLE UNITED FOR SUSTAINABLE  
HOUSING, INC.

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(Employer)Dated \_\_\_\_\_ By \_\_\_\_\_  
(Representative) (Title)

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. It conducts secret-ballot elections to determine whether employees want union representation and it investigates and remedies unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below. You may also obtain information from the Board's website: [www.nlr.gov](http://www.nlr.gov).

Niagara Center Building., 130 S. Elmwood Avenue, Suite 630, Buffalo, NY 14202-2387  
(716) 551-4931, Hours: 8:30 a.m. to 5 p.m.

The Administrative Law Judge's decision can be found at [www.nlr.gov/case/03-CA-271788](http://www.nlr.gov/case/03-CA-271788) or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half Street, S.E., Washington, D.C. 20570, or by calling (202) 273-1940.

**THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE**

THIS NOTICE MUST REMAIN POSTED FOR 60 CONSECUTIVE DAYS FROM THE DATE OF POSTING AND MUST NOT BE ALTERED, DEFACED, OR COVERED BY ANY OTHER MATERIAL. ANY QUESTIONS CONCERNING THIS NOTICE OR COMPLIANCE WITH ITS PROVISIONS MAY BE DIRECTED TO THE ABOVE REGIONAL OFFICE'S COMPLIANCE OFFICER, (716) 551-4946.